

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

United States of America

v.

Case No. 2:06-cr-146

Wendell Callahan

Date of Original Judgment: April 18, 2007

Date of Previous Amended Judgment: September 16, 2008

ORDER ON MOTION FOR REDUCTION OF SENTENCE

This matter is before the court on the defendant's motion under 18 U.S.C. §3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. §994(u).

Defendant pleaded guilty to distribution of over five grams of cocaine base in violation of 21 U.S.C. §841(a)(1) (Count 1) and one count of possession of a firearm by a convicted felon (Count 2). Defendant was originally sentenced to a term of incarceration of 150 months on Count 1, and 120 months on Count 2, to run concurrently. However, his appeal coincided with the first amendments to the guidelines applicable to crack cocaine offenses, and his case was remanded by the Sixth Circuit Court of Appeals for further sentencing proceedings. On remand, the court imposed a sentence of 110 months incarceration on Counts 1 and 2, to run concurrently.

In light of Amendment 748 to the United States Sentencing Guidelines, made retroactive by Amendment 750, the defendant has moved for a further reduction. The parties agree that defendant is eligible for a reduction. After considering defendant's original guideline range, the extent of any downward departure due to

defendant's substantial assistance or downward variance, the factors listed in 18 U.S.C. §3553(a), the facts of defendant's case and defendant's behavior while incarcerated, the parties have concluded that defendant's early release would not present a danger to the safety of the public. The parties jointly recommend that defendant's sentence be reduced to a sentence of 100 months incarceration.

Whether to grant a reduction of sentence pursuant to §3582(c)(2) is within the discretion of the court. United States v. Ursery, 109 F.3d 1129, 1137 (6th Cir. 1997). In considering whether a reduced sentence is appropriate, this court must consider the factors in §3553(a) to the extent that they are applicable. §3582(c)(2). Having considered the motion, and taking into account the policy statement set forth in U.S.S.G. §1B1.10 and the sentencing factors set forth in §3553(a), the motion is hereby granted. The sentence of imprisonment of 110 months on Counts 1 and 2 previously imposed in the last amended judgment is reduced to a sentence of 100 months incarceration on each of Counts 1 and 2, to run concurrently.

Except as provided above, all other provisions of the judgment previously entered in this case shall remain in effect.

s/James L. Graham
James L. Graham
United States District Judge

Order Date: November 8, 2011

Effective Date: November 18, 2011